

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

RIKA SHIMIZU,	)	
	)	Civ. No. 21-00370 HG-KJM
Plaintiff,	)	
	)	
vs.	)	
	)	
	)	
DEAN E. OCHIAI, Individually	)	
and in his Official Capacity as	)	
Judge of the Circuit Court of	)	
the First Circuit State of	)	
Hawaii,	)	
	)	
Defendant.	)	
	)	
	)	
	)	

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**ORDER DENYING PLAINTIFF'S JUNE 24, 2022 MOTION (ECF No. 24)**

On November 24, 2021, the Court issued Judgment in favor of the Defendant. (ECF No. 15).

On December 22, 2021, Plaintiff, proceeding pro se, filed a Motion to Alter or Amend Judgment pursuant to Fed. R. Civ. P. 59. (ECF No. 16).

On January 5, 2022, the Court issued an Order denying Plaintiff's Motion. (ECF No. 17).

On February 4, 2022, Plaintiff filed a Notice of Appeal to the Ninth Circuit Court of Appeals, which remains pending. (ECF No. 18).

On June 24, 2022, Plaintiff filed a Motion pursuant to Federal Rules of Civil Procedure 60 and 62.1 seeking relief from

the Judgment entered in this case on November 24, 2021. (ECF No. 24).

As a general rule, the District Court is divested of jurisdiction over the case once a notice of appeal is filed. Nat. Res. Def. Council, Inc. v. Sw. Marine Inc., 242 F.3d 1163, 1166 (9th Cir. 2001). Nevertheless, the movant may "ask the district court whether it wishes to entertain the motion, or to grant it, and then move [the Ninth Circuit Court of Appeals,] if appropriate, for remand of the case. Gould v. Mut. Life Ins. Co., 790 F.2d 769, 772 (9th Cir. 1986) (quoting Scott v. Younger, 739 F.2d 1464, 1466 (9th Cir. 1984)); see also Fed. R. Civ. P. 62.1.

The District Court here lacks jurisdiction to consider Plaintiff's June 24, 2022 Motion to the extent it seeks relief pursuant to Fed. R. Civ. P. 60. Scalia v. Wellfleet Comm, LLC, 2020 WL 13138268, \*2-\*3 (D. Nev. Dec. 18, 2020). The District Court may only consider Plaintiff's Motion to the extent it requests an indicative ruling pursuant to Fed. R. Civ. P. 62.1. Id.

Plaintiff's Motion seeks to introduce transcripts from state proceedings from April 12, 2021, and June 16, 2021. The transcripts were not previously unavailable and do not provide a basis to alter the November 24, 2021 Judgment. Morris v. McHugh, 997 F.Supp.2d 1144, 1176 (D. Haw. 2014).

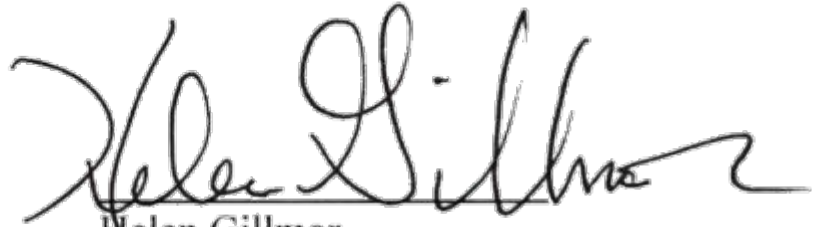
Plaintiff's June 24, 2022 Motion (ECF No. 24) is **DENIED**.

No further filings in this case will be accepted by the District Court without prior permission of the District Judge.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, June 28, 2022.



  
Helen Gillmor  
United States District Judge

Rika Shimizu v. Dean E. Ochiai, individually and in his official capacity as Judge of the Circuit Court of the First Circuit, State of Hawaii, Civ. No. 21-00370 HG-KJM; ORDER DENYING PLAINTIFF'S JUNE 24, 2022 MOTION (ECF No. 24)